HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

C. W. P. No. 425 of 2002

Date of Decision:16.4.2007

Bhupinder Pal ……. Petitioner.

Versus

Union of India and Others …….. Respondents.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting?

For the appellant -State : Mr. Surinder Sharma, Advocate

For the respondents : Mr. Sandeep Sharma, Asstt. Solicitor General of India.

Sanjay Karol, J. (Oral)

This judgment is being dictated in open Court in presence of the learned counsel for the parties.

Shri Krishan Singh, resident of village Dolangi, P. O. Balt, Tehsil Sadar, Distt. Mandi, while working with the respondent - Defence Security Core, (DSC), died in harness on 2nd November, 1997. Request was made on behalf of his wife Smt. Rukmani Devi for compassionate appointment in the Army. In terms of letter dated 27th of December, 1997 (Annexure -PA), she was asked to fulfill various formalities. Subsequently, petitioner Bhupinder Pal, son of deceased vide his letter dated 21st July, 1999, requested for compassionate appointment. Smt. Rukmani Devi vide request dated 18th of March, 2000 (Annexure-PC) clarified that the case of

Shri Bhupinder Pal be processed and considered. Thus, Smt. Rukmani Devi by virtue thereof give up her right of entitlement for compassionate appointment. The said request of the petitioner and Smt. Rukmani Devi was turned down by the respondents in terms of their letter dated 22nd of November 2000 (Annexure - PD), wherein it was categorically stated that since the dependents have not got compassionate appointment within one year of the death of the deceased, the name would be automatically cancelled. It has further stated that the names of all such persons who were in the waiting list from the year 1991 onwards have been cancelled due to non-availability of vacancies. It clarified that the DSC is Corps of Ex-servicemen and its intakes are from Ex-servicemen only. Since no fresh entrants are enrolled in DSC, family was advised to approach the former Regimental Centre of the deceased for enrolment of the petitioner in Army against the vacancies of HQ quota. The parties have further exchanged various letters in terms of Annexures PG, PH & PI. However, the fact remains that the petitioner has not been given compassionate appointment due to the reasons as already set out herein above.

The respondents have filed an affidavit placing on record the copy of the Scheme entitling the dependents of the deceased. In ***State of J&K & Others*** vs. ***Sajad Ahmed Mir,*** (2006 (5), SCC 766), ***National Institute of Technology & Others*** vs. ***Niraj Kumar Singh,*** (2007(2) SCC 481), the apex Court has clarified that compassionate appointment must be under the scheme in consonance with the Articles 14 and 16 of the Constitution of India. The compassionate appointment is given to the widow or the dependents children of the employee who died in harness only with a view to render some assistance to the dependents

so that they do not become destitute. Admittedly, in the present case, the family has been able to tide over the crisis. The deceased died in 1997. There is no Scheme in existence under which employment can be given.

No other point was urged by the learned counsel for the parties.

In this view of the matter, I see no reason to interfere in the orders passed by the respondents, the writ petitioner is not entitled for any compassionate appointment.

The writ petition is dismissed. No costs.

(Sanjay Karol),
Judge.

April 16, 2007
(rana).